



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
14/909,480	02/02/2016	Dominique Sandraz	90148309	6103
146568	7590	09/16/2020	EXAMINER	
MICRO FOCUS LLC			CAMPEN, KELLY SCAGGS	
500 Westover Drive			ART UNIT	PAPER NUMBER
#12603			3691	
Sanford, NC 27330			NOTIFICATION DATE	DELIVERY MODE
			09/16/2020	ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

software.ip.mail@microfocus.com

UNITED STATES PATENT AND TRADEMARK OFFICE

---

BEFORE THE PATENT TRIAL AND APPEAL BOARD

---

*Ex parte* DOMINIQUE SANDRAZ

---

Appeal 2020-003183  
Application 14/909,480  
Technology Center 3600

---

Before BIBHU R. MOHANTY, BRUCE T. WIEDER, and  
ROBERT J. SILVERMAN, *Administrative Patent Judges*.

MOHANTY, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Pursuant to 35 U.S.C. § 134(a), Appellant<sup>1</sup> appeals from the Examiner's decision to reject claims 1–11 and 16–21<sup>2</sup>. We have jurisdiction under 35 U.S.C. § 6(b).

SUMMARY OF THE DECISION

We AFFIRM.

---

<sup>1</sup> We use the word “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42(a). Appellant identifies the real party in interest as MICRO FOCUS LLC. (Appeal Br. 1).

<sup>2</sup> Claim 14 is indicated as cancelled in the remarks with the paper filed Nov. 25, 2019 at page 7.

CLAIMED SUBJECT MATTER

The Appellant's claimed invention relates to a payment unification service that allows users (e.g., buyers and sellers) to easily transact with each other (Spec., para. 15, ll. 1–3). Claim 6, reproduced below with the italics added, is representative of the subject matter on appeal.

6. A method for payment unification performed by a system comprising a hardware processor and comprising:

*sending, by a seller unification gateway associated with a seller payment service of a seller, a gateway lookup request to a payment unification system in response to a request for a transaction of a buyer;*

*receiving, by the seller unification gateway, gateway connection information from the payment unification system, wherein the gateway connection information indicates how the seller unification gateway is to communicate with a buyer unification gateway associated with a buyer payment service of the buyer;*

*using the gateway connection information, sending, by the seller unification gateway, a transaction authorization request to the buyer unification gateway; and*

*receiving, by the seller unification gateway, a transaction authorization response to the transaction authorization request from the buyer unification gateway, and in response, indicating, by the seller unification gateway, that the transaction between the seller payment service and the buyer payment service is authorized.*

### THE REJECTIONS

The following rejections are before us for review:

1. Claims 1–11 and 16–21 are rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter.<sup>3</sup>
2. Claims 1–4, 6, 8–11, and 16–21 are rejected under 35 U.S.C. § 102(a)(1) as anticipated by Dong-San (GB 2 360 380 A, published Sept. 19, 2001).
3. Claims 5 and 7 are rejected under 35 U.S.C. § 103 as unpatentable over Dong-San and Ljunggren (US 2011/0145111 A1, published June 16, 2011).

### FINDINGS OF FACT

We have determined that the findings of fact in the Analysis section below are supported at least by a preponderance of the evidence.<sup>4</sup>

---

<sup>3</sup> The rejection under 35 U.S.C. § 101 of claims 1–11 and 16–21 was made in the Final Action mailed July 22, 2016 and repeated in the Answer at pages 8–12. The Answer at pages 3–8 also listed an additional rejection of claims 6–10, 18, and 19 under 35 U.S.C. § 101. As this rejection of claims 6–10, 18, and 19 under 35 U.S.C. § 101 was not listed as a new grounds of rejection it is treated to be a rationale the Examiner considers in the same thrust as the original rejection of those claims under 35 U.S.C. § 101.

<sup>4</sup> *See Ethicon, Inc. v. Quigg*, 849 F.2d 1422, 1427 (Fed. Cir. 1988) (explaining the general evidentiary standard for proceedings before the Patent Office).

## ANALYSIS

### *Rejection under 35 U.S.C. § 101*

The Appellant argues that the rejection of claim 6 is improper because the claim is not directed to an abstract idea (Appeal Br. 6–13, 16, 17; Reply Br. 2–11). The Appellant argues further that the claim is “significantly more” than the alleged abstract idea (Appeal Br. 14–17; Reply Br. 8–10).

In contrast, the Examiner has determined that the rejection of record is proper (Final Act. 2–7, 11–14; Ans. 6–12, 18–21).

We agree with the Examiner. An invention is patent eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. However, the Supreme Court has long interpreted 35 U.S.C. § 101 to include implicit exceptions: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *E.g., Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

In determining whether a claim falls within an excluded category, we are guided by the Supreme Court’s two-step framework, described in *Mayo* and *Alice*. *Id.* at 217–18 (citing *Mayo Collaborative Servs. v. Prometheus Labs., Inc.*, 566 U.S. 66, 75–77 (2012)). In accordance with that framework, we first determine what concept the claim is “directed to.” *See Alice*, 573 U.S. at 219 (“On their face, the claims before us are drawn to the concept of intermediated settlement, *i.e.*, the use of a third party to mitigate settlement risk.”); *see also Bilski v. Kappos*, 561 U.S. 593, 611 (2010) (“Claims 1 and 4 in petitioners’ application explain the basic concept of hedging, or protecting against risk . . . .”).

Concepts determined to be abstract ideas, and thus patent ineligible, include certain methods of organizing human activity, such as fundamental

economic practices (*Alice*, 573 U.S. at 219–20; *Bilski*, 561 U.S. at 611); mathematical formulas (*Parker v. Flook*, 437 U.S. 584, 594–95 (1978)); and mental processes (*Gottschalk v. Benson*, 409 U.S. 63, 69 (1972)). Concepts determined to be patent eligible include physical and chemical processes, such as “molding rubber products” (*Diamond v. Diehr*, 450 U.S. 175, 192 (1981)); “tanning, dyeing, making waterproof cloth, vulcanizing India rubber, smelting ores” (*id.* at 182 n.7 (quoting *Corning v. Burden*, 56 U.S. 252, 267–68 (1854))); and manufacturing flour (*Benson*, 409 U.S. at 69 (citing *Cochrane v. Deener*, 94 U.S. 780, 785 (1876))).

In *Diehr*, the claim at issue recited a mathematical formula, but the Supreme Court held that “[a] claim drawn to subject matter otherwise statutory does not become nonstatutory simply because it uses a mathematical formula.” *Diehr*, 450 U.S. at 187; *see also id.* at 191 (“We view respondents’ claims as nothing more than a process for molding rubber products and not as an attempt to patent a mathematical formula.”). Having said that, the Supreme Court also indicated that a claim “seeking patent protection for that formula in the abstract . . . is not accorded the protection of our patent laws, and this principle cannot be circumvented by attempting to limit the use of the formula to a particular technological environment.” *Id.* (internal citation omitted) (citing *Benson* and *Flook*); *see, e.g., id.* at 187 (“It is now commonplace that an *application* of a law of nature or mathematical formula to a known structure or process may well be deserving of patent protection.”).

In January 2019, the USPTO published revised guidance on the application of § 101. *2019 Revised Patent Subject Matter Eligibility*

*Guidance*, 84 Fed. Reg. 50 (Jan. 7, 2019) (“Guidance”). Under the Guidance, we first look to whether the claim recites:

- (1) any judicial exceptions, including certain groupings of abstract ideas (i.e., mathematical concepts, certain methods of organizing human activity such as a fundamental economic practice, or mental processes); and
- (2) additional elements that integrate the judicial exception into a practical application, i.e., evaluate whether the claim “appl[ies], rel[ies] on, or use[s] the judicial exception in a manner that imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception.” (*see* Guidance, 84 Fed. Reg. at 54; *see also* MPEP § 2106.05(a)–(c), (e)–(h)).

Only if a claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application, do we then look to whether the claim:

- (3) adds a specific limitation beyond the judicial exception that is not “well-understood, routine, conventional” in the field (*see* MPEP § 2106.05(d)); or
- (4) simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

*See* Guidance.

If the claim is “directed to” an abstract idea, we turn to the second step of the *Alice* and *Mayo* framework, where “we must examine the elements of the claim to determine whether it contains an ‘inventive concept’ sufficient to ‘transform’ the claimed abstract idea into a patent-eligible application.” *Alice*, 573 U.S. at 221 (citation omitted). “A claim that recites an abstract idea must include ‘additional features’ to ensure ‘that the [claim] is more than a drafting effort designed to monopolize the [abstract idea].’” *Id.* (alterations in original) (quoting *Mayo*, 566 U.S. at 77).

“[M]erely requir[ing] generic computer implementation[] fail[s] to transform that abstract idea into a patent-eligible invention.” *Id.*

The Specification states that it describes a payment unification service that allows users (e.g., buyers and sellers) to easily transact with each other even if the users are registered with different payment services (Spec., para. 15, ll. 1–3). Here, the Examiner has determined that the claim sets forth “sending of payment data” and is a certain method[s] of organizing human activities (business relations, sales)” and an abstract concept (Ans. 8, 9). We substantially agree with the Examiner. We determine that the claim sets forth the subject matter in italics above substantially for: [1] “sending. . . with a seller payment service of a seller . . . a request for a transaction of a buyer”; [2] “receiving, by the seller . . . information [that] indicates how the seller . . . is to communicate with . . . a buyer payment service of the buyer”; [3] “sending . . . a transaction authorization request to the buyer”; and [4] “receiving . . . a transaction authorization response to the transaction authorization request from the buyer . . . and in response, indicating, by the seller . . . that the transaction between the seller payment service and the buyer payment service is authorized.” Here, the claim limitations substantially set forth the concept of using a central processing system for a seller and buyer with different payment services and authorization of a payment which is a certain method of organizing human activities and a fundamental economic practice, i.e., a judicial exception. In *Inventor Holdings, LLC v. Bed Bath & Beyond Inc.*, 876 F.3d 1372, 1378 claims directed to the local processing of payments for remotely purchased goods were held to be directed to an abstract idea. In *buySAFE, Inc. v. Google, Inc.* 765 F.3d 1350, 1355 (Fed. Cir. 2014) it was held that claims drawn to



creating a contractual relationship are directed to an abstract idea. The Appellant, at pages 11–14 of the Appeal Brief, have also cited to *McRO, Inc. v. Bandai Namco Games America Inc.*, 837 F.3d 1299 (Fed. Cir. 2016) but the claims in that case are distinguished from this case in being directed to rules for lip sync and facial expression animation. The Appellant, at pages 11–14 of the Appeal Brief, have also cited to *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327 (Fed. Cir. 2016) to show that the claim is not abstract but the claims in that case were not similar in scope to those here and were in contrast directed to a self-referential data table.

We next determine whether the claim recites additional elements to integrate the judicial exception into a practical application. *See* Guidance, 84 Fed. Reg. at 54–55. The Guidance references the MANUAL OF PATENT EXAMINING PROCEDURE (“MPEP”) §§ 2106.05(a)–(c) and (e)–(h).

Here, the claim does not improve computer functionality, improve another field of technology, utilize a particular machine, or effect a particular physical transformation. Rather, we determine that nothing in the claim imposes a meaningful limit on the judicial exception, such that the claim is more than a drafting effort to monopolize the judicial exception.

For example, in the claim, the additional elements beyond the abstract idea are the recited “unification gateway.” The Specification, at paragraphs 19 and 20, describes the payment services (e.g. 104, 106, 108, and 110) as implementing a computing device and may include a unifications gateway (e.g. 118, 120) and these describe generic computer components. The claimed limitations of “sending”, “receiving” “indicat[ing]”, and “authoriz[ing]” here “do not purport to improve the functioning of the computer itself,” do not improve the technology of the technical field, and

do not require a “particular machine.” Rather, they are performed using generic computer components. Further, the claim as a whole fails to effect any particular transformation of an article to a different state. The recited steps in the claim fail to provide meaningful limitations to limit the judicial exception. In this case, the claim merely uses the claimed computer elements as a tool to perform the abstract idea.

Considering the elements of the claim, both individually and as “an ordered combination,” the functions performed by the computer system at each step of the process are purely conventional. Each step of the claimed method does no more than require a generic computer to perform a generic computer function. Thus, the claimed elements have not been shown to integrate the judicial exception into a practical application as set forth in the Revised Guidance which references the MANUAL OF PATENT EXAMINING PROCEDURE (“MPEP”) §§ 2106.05(a)–(c) and (e)–(h).

Turning to the second step of the *Alice* and *Mayo* framework, we determine that the claim does not contain an inventive concept sufficient to “transform” the abstract nature of the claim into a patent-eligible application. Considering the claim both individually and as an ordered combination fails to add subject matter beyond the judicial exception that is not well understood, routine, and conventional in the field. Rather the claim uses well-understood, routine, and conventional activities previously known in the art, and they are recited at a high level of generality. The Specification, at paragraphs 17 and 19, for example, describes using conventional computer components such as computing devices, wireless networks, hubs, routers, and the Internet in a conventional manner. Here, the claimed generic computer components which are used to implement the claimed

method are well understood, routine, or conventional in the field. The Appellant has not demonstrated that the computing devices described in the Specification, at paragraph 19, for instance, are not general purpose computer components known to perform similar functions in a well-understood manner. Here, the claim has not been shown to be “significantly more” than the abstract idea.

The Appellant cites to *DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245 (Fed. Cir. 2014) and argues that the combination of elements is “significantly more” (Appeal Br. 15). We disagree, as the Appellant has not shown how the claimed subject matter is rooted in technology given that the Specification describes only the use of generic computer equipment used in a routine, conventional, and generic manner and here the claim has not been shown to be “significantly more” than the abstract concept.

For these above reasons, the rejection of claim 6 is sustained. The Appellant has provided the same arguments for the remaining independent claims, 1 and 11, and their dependent claims, which are drawn to similar subject matter and the rejection of these claims is sustained for the same reasons given above.

*Rejections under 35 U.S.C. § 102(a) and 35 U.S.C. § 103*

The Appellant argues that the rejection of claim 1 under 35 U.S.C. § 102(a) is improper because the cited prior art fails to disclose the claim limitation for:

the gateway directory instructions executable on the processor to store a list of trusted unification gateways and to:  
receive a gateway lookup request from the first unification gateway associated with the first payment service

when the transaction is to be initiated between the first payment service and the second payment service via the associated second unification gateway; and

return gateway connection information to the first unification gateway in response to the gateway lookup request to allow the transaction to proceed, wherein the gateway connection information indicates how the first unification gateway is to connect over a network with the second unification gateway associated with the second payment service for conducting the transaction between the first and second payment services.

Appeal Br. 17, 18).

In contrast, the Examiner has determined that the cited claim limitations are shown by Dong-San at various portions of Figures 4–7 and pages 10, 12, 13, and 16–18 (Ans. 13, 14).

We agree with the Examiner. A statement that merely points out what a claim recites will not be considered an argument for separate patentability of the claim. 37 C.F.R. 41.37(c)(1)(iv). Here, in the Appeal Brief, at pages 18–20, the Appellant has essentially only argued what the claim limitations literally recite. Regardless, we have reviewed the rejection of record and citations made by the Examiner and agree with and adopt the rejection of record. In Dong-San, at Figure 4 plural payment gateways 31–33 are connected to a unified payment gateway 30. Dong-San, at page 17, line 20 to page 18, line 10, discloses that the unified payment gateway 30 judges which subsidiary payment gateway is advantageous to the customer or the unified gateway 30 in the aspect of service charges, payment dates, and amounts of the charge to the institution and then drives the transaction with the API (application of protocol interface) of the selected payment gateway 31, 32, or 33. Here, the list of unification gateways must be stored

for at least some portion of time in order to access those gateways. Thus to the extent argued, Dong-San, at the above cited portions, has disclosed the cited portion of the claim limitation. Accordingly, the rejection of claim 1 under 35 U.S.C. § 102(a) is sustained. The Appellant has provided the same arguments for claims 2, 4, 6, 8–11, 18, and 19, and the rejection of these claims is sustained as well.

With regard to claim 3, the Appellant argues the prior art fails to disclose “wherein the gateway directory instructions are executable on the processor to retrieve the gateway connection information that is associated with the user identifier, in response to the gateway lookup request” (Appeal Br. 20). The Examiner has cited to this as being disclosed by Dong-San, at page 19, line 12 to page 20, line 2 (Ans. 15). We agree with the Examiner. Dong-San at the cited portion as well as at page 17, line 20 to page 18, line 10 discloses the cited claim limitation. Accordingly, the rejection of claim 3 is sustained.

With regards to claims 16 and 20, the Appellant argues that the cited prior art fails to disclose “wherein the gateway connection information comprises a network address or a uniform resource locator of the second unification gateway” (Appeal Br. 21). In contrast, the Examiner has determined that the cited claim limitation is shown by Dong-San at page 17, lines 5–11, and Figures 4–7 (Ans. 16). We agree with and adopt the Examiner’s findings and determination in this regard. Accordingly, the rejection of claims 16 and 20 is sustained.

With regards to claim 17, the Appellant argues the cited prior art fails to disclose “a payment aggregator to: aggregate a plurality of transactions between the first and second payment services, and responsive to an

aggregated payment amount of the aggregated plurality of transactions exceeding a threshold, indicate transfer of the aggregated payment amount between the first and second payment services” (Appeal Br. 21, 22). In contrast, the Examiner has determined that the cited claim limitation is shown by pages 12–16, 19, 20, and Figures 4–7 (Ans. 16). We agree with the Appellant. Here, the cited claim limitation has not been disclosed by the citations above in relation to the claimed “exceeding a threshold.”

Accordingly, this rejection of claim 17 is not sustained. The Appellant has provided the same arguments for claim 21, and this rejection is not sustained for these same reasons as well.

With regard to the rejection of claims 5 and 7 under 35 U.S.C. § 103 as unpatentable over Dong-San and Ljunggren, the Appellant, at page 24 of the Appeal Brief, has provided the same arguments presented as for claim 1 addressed above. Accordingly, the rejection of these claims is sustained for the same reasons given above in relation to claim 1 as no other arguments have been provided.

### CONCLUSIONS OF LAW

We conclude that Appellant has not shown that the Examiner erred in rejecting claims 1–11 and 16–21 under 35 U.S.C. § 101 as being directed to non-statutory subject matter.

We conclude that Appellant has not shown that the Examiner erred in rejecting claims 1–4, 6, 8–11, 16, and 18–20 under 35 U.S.C. § 102(b) as anticipated by Dong-San.

We conclude that Appellant has shown that the Examiner erred in rejecting claims 17 and 21 under 35 U.S.C. § 102(b) as anticipated by Dong-San.

We conclude that Appellant has not shown that the Examiner erred in rejecting claims 5 and 7 under 35 U.S.C. § 103 as unpatentable over Dong-San and Ljunggren.

#### DECISION SUMMARY

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s)/Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1-11, 16-21	101	Eligibility	1-11, 16-21	
1-4, 6, 8-11, 16-21	102(a)	Dong-San	1-4, 6, 8-11, 16, 18-20	17, 21
5, 7	103	Don-San, Ljunggren	5, 7	
<b>Overall Outcome</b>			1-11, 14, 16-21	

#### TIME PERIOD FOR RESPONSE

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

**AFFIRMED**